

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA

UNITED STATES OF AMERICA,

Plaintiffs,

vs.

NOE LOERA,

Defendants.

4:13CR3025

ORDER

The defendant moves to set aside my order restricting access to filing 115-1. The document at issue is a memorandum created by Attorney General Eric Holder and distributed to the “United States Attorneys and Assistant Attorney General for the Criminal Division.” The government’s motion to restrict stated: “The August 12th memorandum is privileged attorney work product, it was an internal communication within the Department of Justice, and was not intended for public dissemination.” (Filing No. [116](#)). A reading of the document confirms it includes work product, and the recipient attorneys have been instructed not to disseminate the memorandum. (Filing No. [121](#)).

Defense counsel states the memorandum has been widely disseminated, but cites to no government website posting the memorandum. He argues: “The Jurist sponsored by the University of Pittsburg School of Law reports that the Holder memorandum was available on the DOJ website and links to very same document included in Defendant’s Index of documents,” (Filing No. [123](#), at CM/ECF p. 1), but the cited article does not state that. There is no evidence explaining how “AG Holder’s memo has been available to ALL members of the Nebraska CJA panel since at least 3:31 pm on August 12, 2013.” (Filing No. [123](#), at CM/ECF p. 1).

As the government argues, “[s]imply because it is possible to obtain a copy of the memorandum, does not mean that this district’s ECF website should be the means by

which an internal memorandum, which is privileged work product, is disseminated.” And as it correctly notes, the defendant is not prejudiced “by keeping the defendant’s exhibit restricted to the parties.” (Filing No. [1](#), at CM/ECF p. 2).

Upon consideration of the parties’ arguments, and review of the memorandum at issue, (Filing No. [115-1](#)),

IT IS ORDERED that defendant’s motion to vacate, (Filing No. [118](#)), is denied.

August 26, 2013.

BY THE COURT:

s/ Cheryl R. Zwart
United States Magistrate Judge